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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/728,857 | 12/08/2003 | Andrew John Cardno | 83336.1710 | 1227 |

66880 7590 06/24/2010
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| EXAMINER |
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NUNEZ, JORDANY

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| ART UNIT | PAPER NUMBER |
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2175

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| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|

06/24/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

emiyake@steptoe.com
mhein@ballytech.com
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|------------------------------|--------------------------------------|--------------------------------------------|--|
| Office Action Summary | Application No. 10/728,857 | Applicant(s) CARDNO, ANDREW JOHN | |
| | Examiner Jordany Núñez | Art Unit 2175 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/01/2010 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-5, 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cardno (WO 0225494) in view of Soper et al. (WO 0079438).

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As to claims 1, 8:

Cardno shows a data analysis system embodied on a computer readable storage medium, and corresponding method, comprising:

an interaction database maintained in computer memory, the interaction database comprising interaction data representing interactions between customers and merchants (page 6, lines 1-12);

a spatial display component configured to display a spatial graphic of at least part of the physical layout of a commercial premise of a merchant (page 8, last 8 lines);

a retrieval component configured to retrieve from the interaction database a plurality of data values representing interactions between customers and merchants (page 8, lines 1-12);

a contour generator configured to generate and superimpose a representation of the data values on the spatial graphic (page 9, lines 12-23);

a data display component configured to superimpose a representation of interactions between customers and merchants associated with the part of the spatial graphic selected by the user (page 12, lines 9-16);

wherein the contour generator is configured to generate and display data points corresponding to the data values (e.g., data point are shown as contours), such that one or more of the data points is displayed as a local maximum (e.g., data point are preferably represented gradually drop off), one or more contour lines surround one or more of the data points (e.g., there is a contour for each data point), each contour line representing data values of equal value and which are less than the data value of the data point around which the contour line is displayed (e.g., each contour line for each data point falls away from each data point) (page 9, last paragraph).

Cardno fails to specifically show: a user selection component configured to enable a user to select part of the spatial graphic.

In the same field of invention, Soper teaches: Spatial Data Management System. Soper further teaches: a user adding, deleting, or repositioning or rotating objects displayed to a user in a graphical spatial representation of objects (page 6, lines 7-13).

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Thus, it would have been obvious to one of ordinary skill in the art, having the teachings of Cardno and Soper at the time that the invention was made, to have combined the teachings of Soper with the system and method as taught by Cardno.

One would have been motivated to make such combination because a way to enable a casino operator to know how effective casino layout changes affect revenue would have been obtained and desired, as expressly taught by Soper (page 1, lines 18-21).

As to claims 2, 9, Cardno shows:

wherein the merchant provides a plurality of products to customers, the spatial graphic comprising representations of one or more of the products corresponding to the spatial position of the products within the physical commercial premise of the merchant (page 5, last paragraph).

As to claims 3, 10, Soper shows:

the user selection component is configured to enable a user to select a product, in the spatial graphic (page 5, lines 4-6).

As to claims 4, 11, Soper shows:

wherein the representation generated by the data display component is associated with the product selected by the user (page 5, lines 4-6).

As to claim 5, Cardno shows:

wherein the representation displays interactions between customers and merchants involving the product selected by the user (page 12, lines 9-16).

As to claim 12, Cardno shows:

A method of data analysis as claimed in claim 11 further comprising the step of generating and displaying a contoured representation of one or more of the data values centered on respective data

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points, such that one or more of the data points is displayed as a local maximum (page 9, last paragraph)..

It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

Response to Arguments

Applicant's arguments with respect to claims above have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Busche et al. [U.S. 20030055707]

Pekowski et al. [U.S. 6557007]

Hughes et al. [U.S. 592261]

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordany Núñez whose telephone number is (571)272-2753. The examiner can normally be reached on Monday Through Thursday 9am-7:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571)272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JN
6/16/2010

/William L. Bashore/
Supervisory Patent Examiner, Art Unit 2175